ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
JOHN MAUZY PITTMAN, CHIEF JUDGE

DIVISION IV

CA07-872

March 12, 2008

AEGIS SECURITY INSURANCE CO.
APPELLANT

APPEAL FROM BENTON COUNTY CIRCUIT COURT [NO. CV-07-32-3]

V.

HON. JAY T. FINCH, JUDGE

DEBBIE ROBERTSON
APPELLEE

AFFIRMED

The appellant insurance company appeals from a default judgment for the appellee insured entered after appellant failed to file a timely answer to appellee's complaint. Appellant argues that the trial court erred in denying its motion for additional time to answer and in entering a default judgment against it. We affirm.

Appellant argues that the grant of a default judgment in this case is contrary to the public policy preference for deciding cases on their merits. But that can be said of all default judgments. On appeal, we review a trial court's granting or denial of a motion to set aside a default judgment for abuse of discretion. *Nucor Corporation v. Kilman*, 358 Ark. 107, 186 S.W.3d 720 (2004). We find no abuse of discretion in this case.

After appellant denied coverage of a claim made by appellee under an accident

insurance policy, appellee filed a complaint in the Benton County Circuit Court on January 9, 2007. After receipt of service, counsel for appellant, Mr. Eric Wiener, contacted appellee's attorney and requested a thirty-day extension of time to file a response. Appellee granted this request. However, appellant did not file an answer within the thirty-day period, but instead after the expiration of that period sent appellee a letter stating that its response had been delayed by stenographic and weather problems, that local counsel had been obtained, and that it would file a counterclaim for "abuse of process in a frivolous law suit" if appellee did not voluntarily dismiss her lawsuit. Appellant filed an untimely answer one week later. Appellee filed a motion to strike appellant's answer and for default judgment the following day. The trial court granted that motion, and this appeal followed.

Our supreme court has held that being "too busy" constitutes neither mistake nor excusable neglect sufficient to set aside a default judgment. *Id.* At best, appellant has shown only that it was "too busy" in this case to resolve stenographic issues and deal with routine delays imposed by the weather. Although it is true that appellee agreed to one extension of time to allow appellant to answer, it would be illogical and poor policy to hold that granting a voluntary extension of specific duration amounts to a waiver of any objection to a subsequent late filing. Under these circumstances, we think that it was well within the trial court's discretion to hold the insurer to the rules applicable to all parties.

Affirmed.

GLOVER and MILLER, JJ., agree.